



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Group Art Unit: 3641

Robert B. Huston

Application No. 10/797,751

Filed: March 9, 2004

For: **COMPOSITE FIREARM BARREL
ASSEMBLIES (as amended)**

Date: June 8, 2004

*I hereby certify that this correspondence is being
deposited with the United States Postal Service as
First Class Mail in an envelope addressed to:*

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

June 8, 2004

Linda Stuwe

Signature
Linda Stuwe
Typed Name

TRANSMITTAL LETTER

TO THE COMMISSIONER FOR PATENTS:

Enclosed for filing in the above-referenced application are the following:

- ☒ Notice to File Missing Parts of Nonprovisional Application
- ☒ Declaration (copy of signed declaration from grandparent application)
- ☒ Return Receipt Postcard

REMARKS

This response is being filed under protest. Applicant believes that the Notice to File Missing Parts was improperly issued and, therefore, applicant should not be required to pay the late filing surcharge required by the Notice to File Missing Parts. The deficiency alleged in the Notice of Missing Parts is that the declaration filed with the original application papers was unsigned. However, a signed declaration is not required in a divisional or continuation application where a signed declaration was filed in a parent application. See 37 CFR 1.63(d)(1)(iv) ("A newly executed oath or declaration is not required . . . in a continuation or divisional application, provided that: . . . a copy of the executed oath or declaration filed in the prior application, showing the signature or an indication thereon that it was signed, is submitted for the continuation or divisional application.") (emphasis added). In this application, a signed copy of the declaration was not readily available at the time of filing, so a copy of the declaration bearing the indication "/s/" on the signature line was filed with the original application papers, together with an explanatory cover sheet that clearly and conspicuously stated that the declaration was a copy of the signed one filed in grandparent application No. 09/312,205. The Office improperly failed to recognize the declaration, in


contravention to its own rules. Moreover, the Office has already recognized the sufficiency of the declaration filed in the grandparent application, as evidenced by the issuance of a patent based on that application—U.S. Patent No. 6,497,065.

Nevertheless, to avoid any further delay, Applicant has enclosed a copy of the signed declaration recently obtained from the file history at the U.S. Patent and Trademark Office for grandparent application No. 09/312,205.

For the reasons stated above, Applicant has not enclosed a check herewith in payment of a late filing surcharge. However, in the event that the Office determines that the declaration filed with the original application papers was insufficient to meet the requirements of 37 CFR 1.63, the Commissioner is hereby authorized to charge the late filing surcharge of \$130.00 and any additional fees which may be required in connection with filing of these papers, to USPTO Deposit Account No. 19-4455.

Respectfully submitted,

Michaels of Oregon Co.

By 
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